

carrying out the responsibilities assigned to the Secretary under the Executive order. All correspondence regarding the order should be directed to the Director, Office of Federal Contract Compliance Programs, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

§ 60-1.3 Definitions.

Administering agency means any department, agency and establishment in the executive branch of the Government, including any wholly owned Government corporation, which administers a program involving federally assisted construction contracts.

Administrative law judge means an administrative law judge appointed as provided in 5 U.S.C. 3105 and Subpart B of Part 930 of Title 5 of the *Code of Federal Regulations* (see 37 FR 16787) and qualified to preside at hearings under 5 U.S.C. 557.

Agency means any contracting or any administering agency of the Government.

Applicant means an applicant for Federal assistance involving a construction contract, or other participant in a program involving a construction contract as determined by regulation of an administering agency. The term also includes such persons after they become recipients of such Federal assistance.

Construction work means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other on-site functions incidental to the actual construction.

Contract means any Government contract or any federally assisted construction contract.

Contracting agency means any department, agency, establishment, or instrumentality in the executive branch of the Government, including any wholly owned Government corporation, which enters into contracts.

Contractor means, unless otherwise indicated, a prime contractor or subcontractor.

Director means the Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor or any person to whom he delegates authority under the regulations in this chapter.

Equal opportunity clause means the contract provisions set forth in § 60-1.4 (a) or (b), as appropriate.

Federally assisted construction contract means any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

Government means the government of the United States of America.

Government contract means any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. The term "services", as used in this section includes, but is not limited to the following services: Utility, construction, transportation, research, insurance, and fund depository. The term "Government contract" does not include (1) agreements in which the parties stand in the relationship of employer and employee, and (2) federally assisted construction contracts.

Minority group as used herein shall include, where appropriate, female employees and perspective female employees.

Modification means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

Order, Executive order, or Executive Order 11246 means parts II, III, and IV of the Executive Order 11246 dated September 24, 1965 (30 FR 12319), any Executive order amending such order, and

any other Executive order superseding such order.

Person means any natural person, corporation, partnership, unincorporated association, State or local government, and any agency, instrumentality, or subdivision of such a government.

Prime contractor means any person holding a contract and, for the purposes of Subpart B of this part, any person who has held a contract subject to the order.

Recruiting and training agency means any person who refers workers to any contractor or subcontractor or who provides for employment by any contractor or subcontractor.

Rules, regulations, and relevant orders of the Secretary of Labor used in paragraph (4) of the equal opportunity clause means rules, regulations, and relevant orders of the Secretary of Labor or his designee issued pursuant to the order.

Secretary means the Secretary of Labor, U.S. Department of Labor, or his or her designee.

Site of construction means the general physical location of any building, highway, or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair and any temporary location or facility at which a contractor, subcontractor, or other participating party meets a demand or performs a function relating to the contract or subcontract.

Subcontract means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

Subcontractor means any person holding a subcontract and, for the purposes of Subpart B of this part, any person who has held a subcontract subject to

the order. The term "Firsttier subcontractor" refers to a subcontractor holding a subcontract with a prime contractor.

United States as used herein shall include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, and the possessions of the United States.

[43 FR 49240, Oct. 20, 1978, as amended at 61 FR 19988, May 3, 1996]

§ 60-1.4 Equal opportunity clause.

(a) *Government contracts.* Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the order in each of its Government contracts (and modifications thereof if not included in the original contract):

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.